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September 30, 1994

William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

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RE: Ex Parte Meeting Concerning PR Docket No. 93-61

Dear Mr. Caton

On Friday, September 30, 1994, Roy R. Russo and the undersigned, partners in the law firm of Cohn and Marks, met with Commissioner Susan Ness and her Legal Advisor, David Siddall, on behalf of the Interagency Group to discuss the above-referenced proceeding and its possible impact on the Group's regional electronic toll collection project known as the E-ZPass Plan.

The Interagency Group consists of the New Jersey Highway Authority, the New Jersey Turnpike Authority, the New York State Thruway Authority, the Pennsylvania Turnpike Authority, the Port Authority of New York & New Jersey, the South Jersey Transportation Authority, and the Triborough Bridge and Tunnel Authority.

At the meeting, Mr. Siddall was given a copy of the attached three-page summary position of the Interagency Group regarding the above-referenced pending proceeding.

Sincerely,

Allan R. Adler
Allan R. Adler

Attachment

August 1994

**Summary Position of the Interagency Group ("IAG")
concerning the
FCC's Notice of Proposed Rulemaking ("NPRM")
to Revise Current AVM Regulations**

The IAG consists of 7 New York, New Jersey and Pennsylvania toll agencies that are jointly implementing the "E-ZPass Plan," a coordinated electronic toll collection plan which will ultimately include all of the toll river crossings to New York City, other major toll portals (i.e., Goethals and Verrazano Narrows Bridges), and toll collection points along major intra- and interstate roads (i.e., the New Jersey Turnpike, the New York State Thruway, the Garden State Parkway, the Pennsylvania Turnpike, and the Atlantic City Expressway).

Interoperable and compatible "automatic vehicle monitoring" ("AVM") systems are essential to the success of the E-ZPass Plan, and the IAG is now testing systems from competing vendors based on different technologies that operate in the 904-912 MHz and 918-926 MHz radio frequency bands.

The IAG agrees that the 20-year old "interim" AVM rules that are currently in effect should be revised and improved to promote continued development of AVM systems and applications. However, the IAG believes that rules proposed by the FCC would inhibit, rather than enhance, the rapid progress now being made toward a diverse and competitive AVM service marketplace in which users can choose among a variety of technologies and systems to obtain the ones best suited to their needs.

The major problem with the NPRM is that the FCC has allowed interference disputes between providers of different AVM systems to overshadow its regard for the needs of AVM service users in shaping its proposed rules.

The FCC's proposal to segregate the 902-928 MHz AVM band into separate allocations for "wide-band, pulse-ranging" and "narrow-band" AVM systems is an unnecessary and unwise response to the

interference problems experienced by some AVM service providers. It would constitute a significant shift away from the "shared band" approach of the current rules toward an "exclusive use" allocation that would

- * stifle incentives for providers to avoid or resolve interference problems through improved technologies and voluntary coordination efforts; and,

- * deprive AVM service users of the diverse, competing provider options they must have in order to make cost-effective, performance-based choices among available AVM systems.

The NPRM distinction between "wide-band, pulse-ranging" AVM systems and "narrow-band" AVM systems is a misleading basis for categorizing current AVM systems because it focuses on how much spectrum a system uses, rather than its geographic coverage and functionality. It ignores technological developments in the AVM field and should not become the regulatory basis for determining frequency assignments for AVM services in the future.

Apart from misplacing the interests of AVM service providers above those of AVM service users, the FCC's proposed rules fail to address an important public interest in meeting the special needs of Government and quasi-Government entities, such as the members of the IAG, who are implementing plans for large-scale, publicly-funded electronic toll and traffic management (ETTM) AVM services consistent with the Congressional mandate for the development of "intelligent vehicle-highway systems."

The IAG has urged the FCC to retain the "shared spectrum" approach and to adopt AVM service rules that provide regulatory predictability without eliminating the market flexibility required for the continuing development of AVM products and applications. In addition, it has urged the FCC to adopt special public interest rules to expressly provide for the co-primary status, extended "build-out" schedules, blanket license authorizations, and other special considerations necessary to facilitate the implementation of massive, multi-jurisdictional public service AVM projects, such

The IAG was not among the parties informally contacted by Commission staff during the period of August 2-5, 1994 for comment regarding an orally-presented proposal for revising the NPRM and resolving this proceeding. Although the staff deadline for requested comments has passed, we are currently reviewing this proposal in anticipation of submitting comments.

The Interagency Group

New Jersey Highway Authority
New Jersey Turnpike Authority
New York State Thruway Authority
Pennsylvania Turnpike Commission
Port Authority of N.Y. and N.J.
South Jersey Transportation Authority
Triborough Bridge and Tunnel Authority